

# DOING BUSINESS IN AUSTRIA



## Business Start-Ups

### Business Start-up Promotion Act (Neugründungsförderungsgesetz)

If you intend to set up a company, you will be expected to pay various fees. However, if your business start-up meets a number of requirements set forth by what is known in Austria as the Neugründungsförderungsgesetz (which translates as Business Start-up Promotion Act), certain fee exemptions may apply.

Your start-up might be exempt from the following fees:

- ◆ stamp duty (Stempelgebühren),
- ◆ administrative fees (Bundesverwaltungsabgaben),
- ◆ real property transfer tax (Grunderwerbsteuer),
- ◆ court fees (Gerichtsgebühren),
- ◆ payroll fringe costs (Lohnnebenkosten).

### Industrial law (Gewerberecht)

In Austria, a number of trades require some sort of qualification certificate. You will need a **business license**, especially if the nature of your work requires skilled labour (e.g., a mechanic or a carpenter). The qualification you need to provide depends on the type of business you intend to establish.

To obtain a business licence you generally need to:

- ◆ have Austrian or EU/EEA citizenship;
- ◆ be a natural person aged 19 or older;
- ◆ have no reasons for exclusion in your records (e.g., financial offence, court sentence);
- ◆ have a business location and, if required, hold an operating licence (Betriebsanlagengenehmigung).

If you intend to establish a **corporation or a partnership**, you need to appoint **one managing director** who **holds the right to exercise this trade** (e.g., a carpentry business must have at least one fully qualified carpenter as its managing director).

Sole proprietors are required to designate a licensed managing director if they do not meet the requirements themselves.

There are a lot of unregulated trades for which you do not need any qualification (e.g., any kind of trading).

## Legal Forms

In Austria there are a number of legal forms to choose from when starting a company:

- ◆ sole proprietorship
- ◆ corporations:
  - ◆ limited liability company (GmbH)
  - ◆ joint stock corporation (AG)
  - ◆ societates Europaea (SE)
  - ◆ public or private foundations (Öffentliche Stiftung or Private Stiftung)
- ◆ partnerships:
  - ◆ general partnership (Offene Gesellschaft)
  - ◆ limited partnership (Kommanditgesellschaft)
  - ◆ partnership under civil law (Gesellschaft Bürgerlichen Rechts)

### Sole proprietor (Einzelunternehmer)

Sole proprietors have unlimited personal liability for all of their company's debts and obligations, providing coverage with their business assets as well as personal property.

The law does **not require any specific starting capital**.

## Legal forms

In Austria, the legal forms are: joint stock corporation (AG), private company with limited liability (GmbH) or a European company (societas Europaea – SE).

### The legal forms typically share a number of characteristics:

The company itself is a legal entity and has its own legal identity. **Proprietors are not personally liable for their company's debts and obligations**. Their liability is limited to the amount of their capital contribution. The law requires some starting capital and the amount in starting capital required depends on the legal form of the entity. Once entered on the commercial register (known as the Firmenbuch), a corporation comes into legal existence.

## Limited liability company (GmbH - LLC)

In Austria the most popular corporation is the limited liability company known by its abbreviation GmbH. Proprietors can be individuals as well as legal entities. A GmbH can also be established by only one shareholder. Each shareholder is obliged to invest capital in the company. The designation Gesellschaft mit beschränkter Haftung or GmbH has to be added at the end of the company name.

A limited liability company's **share capital** amounts to € 35,000. At the time of incorporation, half of this amount or € 17,500.00 needs to have been paid in. Newly set up companies have the option of limiting share capital under a privilege for start-ups. In that case, only €10,000 need to be paid for the first ten years.

## Joint stock corporation (AG)

A joint stock corporation is known as an Aktiengesellschaft (AG) and can be established either by natural or legal persons. The designation Aktiengesellschaft or AG must be added at the end of the company name. This legal form is typical for larger business companies.

The corporate bodies of joint stock corporation are the **general meeting of shareholders** (Hauptversammlung), the **supervisory board** (Aufsichtsrat) which needs to consist of at least three people and the **board of directors** (Vorstand). The shareholders get to elect the supervisory board, and the supervisory board gets to appoint the board of directors.

Setting up a joint stock corporation requires **capital stock in the amount of €70,000**. As opposed to the limited liability company, the capital stock of an AG is split into shares. Like the limited liability company, the joint stock corporation has to be entered on the commercial register. At least 25 percent of the stock capital must have been paid at the time of registration.

## European company (SE)

The European company (societas Europaea, SE) is **based on European law**. The advantage of this legal form is that the same law applies to it across Europe. A European company is formed by reorganising an existing company, for instance by way of a merger or by converting an AG. This explains why start-ups are usually not set up as an SE. The SE must have **capital stock** of at least **€120,000**.

## Foundation (Stiftung)

There are two types of foundations: **public foundations** (e.g., a charity) and **private foundations**. Foundations need to be entered on the commercial register. They operate as holding companies and do not perform any trade or commercial activity themselves.

A private foundation must have **assets of at least €70,000**. Unlike other types of corporations, the private foundation does not have a proprietor. The foundation itself owns the assets.

## Partnerships

Partnerships include the **general partnership (Offene Gesellschaft)**, **limited partnership (Kommanditgesellschaft)**, **partnership under civil law (Gesellschaft Bürgerlichen Rechts)**

### Characteristics they share:

All partnerships have in common that they must have at least one partner with unlimited liability. There are no formal requirements for a partnership.

In this case too, the designation of the legal form (i.e.: offene Handelsgesellschaft or OG, Kommanditgesellschaft or KG), has to be added after the company name.

## General partnerships (Offene Handelsgesellschaft, OG)

To set up a general partnership, two or more natural or legal persons are needed. They must assume **personally liability for their company's debts and obligations**. In other words, the proprietors are not only liable with their business assets but also with their personal assets.

No minimum capital stock is required. The proprietors are not required to contribute any cash. Any of the proprietors can take on the management of the business.

Partnerships are legalised once they are entered on the commercial register.

## Limited partnerships (Kommanditgesellschaft, KG)

The structure of a limited partnership (Kommanditgesellschaft or KG) is similar to that of a general partnership (OG). It also needs to be entered on the commercial register.

The main difference is that **general partners** (Komplementär) have unlimited liability while **limited partners** (Kommanditist) are **liable only for the amount of their liability deposit**. The personally liable partner can also be an entity, usually a GmbH, which is then called a GmbH & Co KG.

## Partnership under civil law (Gesellschaft Bürgerlichen Rechts)

A partnership under civil law **does not have its own legal identity**. Therefore, it cannot be entered on the commercial register. It is not a company in its own right. All the partners must meet the requirements set forth by industrial law and all of them have unlimited liability. This form is usually set up for short-term projects.

## Taxes

The most important taxes are:

- ♦ **income taxes:** income tax (Einkommenssteuer) and corporate income tax (Körperschaftsteuer), capital gains tax (Kapitalertragssteuer)
- ♦ **value-added tax** (Umsatzsteuer)
- ♦ **real property transfer tax** (Grunderwerbsteuer)

### Income taxation

Income tax (Einkommenssteuer)

Natural persons whose **place of residence** (Wohnsitz) or **habitual place of residence** (gewöhnlicher Aufenthalt) **is in Austria** are obliged to pay income tax. Basically, they are subject to income tax on their **worldwide income**. **Non-resident taxpayers only** need to pay **income tax for their Austrian income**. Generally, earnings are subject to income tax if they fall into one of the seven income categories under fiscal law, which are:

- ♦ income from agriculture and forest economy;
- ♦ income from independent services;
- ♦ income from trade and business;
- ♦ income from employment;
- ♦ income from capital investments;
- ♦ income from rent and leasing;
- ♦ other earnings.

In a first step, these seven items are added up. Once any special and extraordinary expenses have been subtracted, you have the basis for income tax calculation. Income tax is a **progressive tax ranging from 0 to 55 percent**.

Annual income of up to **€11,000 does not require the payment of any income tax**.

In Austria, employees receive 14 monthly salaries a year. The 13<sup>th</sup> and 14<sup>th</sup> salaries are subject to tax privileges.

### Companies and income tax

Sole proprietors and partners in partnerships are likewise subject to income tax.

#### Taxation of partnerships:

The partnership itself is not subject to taxation. The profit is directly attributed to the partners and they are subject to income tax.

### Corporate income tax (Körperschaftsteuer)

The profits of corporations are subject to corporate income tax. Corporate income tax is **25 percent** (non-progressive).

Corporate income tax payers are required to pay a **minimum tax amount** regardless of whether the corporation makes a profit or not. **Limited liability companies (GmbH)** are required to pay € 1,750 a year. **Newly set up companies are expected to pay € 500 a year over the first five years, € 1,000 a year over the subsequent five years and € 1,750 a year thereafter.**

**Joint stock corporations** pay a minimum of € 3,500 in taxes.

### Capital gains tax (Kapitalertragssteuer)

Capital gains tax is withheld for dividends paid and for interest on bank deposits as well as bonds. **27.5 percent are withheld at source** so individuals are not obliged to pay capital gains tax themselves.

### Value-added tax (Umsatzsteuer)

The VAT rate is **20 percent**. In some **special cases** this rate has been reduced to **10 or 13 percent**.

Real property transfer tax (Grunderwerbssteuer)

**Land acquisition** is subject to a **3.5%** real property transfer tax on the purchase price.

## Social security system

The social security system in Austria is based on the principle of **compulsory insurance** (Pflichtversicherung). It includes **accident insurance** (Unfallversicherung), **pension insurance** (Pensionsversicherung) and **health insurance** (Krankenversicherung).

Both the employer and the employee pay towards social security. The insurance contribution is deducted by the employer from the employee's total monthly earnings.

	Contribution of the Employee	Contribution of the Employer
Hourly wage (blue collar)	18.12 %	21.38 %
Salary (white collar)	18.12 %	21.38 %

The maximum monthly assessment base (Höchstbeitragsgrundlage) is € 6.090,00 (2019).

## Accounting principles / Reporting requirements

Accounting principles under tax law expand on the general bookkeeping obligations (Buchführungspflicht) set forth by commercial law (Unternehmensgesetz). Therefore, all taxpayers who are obliged to keep accounts under commercial law are also obliged to keep accounts for tax purposes.

In **corporations**, account records must be kept in accordance with general accounting principles. The same applies to **sole proprietors and partnerships** with an **annual profit of more than €700,000**.

All companies that are **not subject to the general accounting obligations** can either prepare a **statement of income and expenses** (Einnahmen-Ausgabenrechnung) or **opt for lump sum taxation** (Pauschalierung).

## Austrian business culture

The business culture in Austria at a glance:

A **typical working day** in Austria is from **8:00 am to 5:00 pm**.

Hierarchy and status are two important values in Austrian business culture. Make sure that you have any titles (professional, academic) you hold on your business card. When you meet business partners, you should always formally address them by their titles followed by their family names.

If you wish to establish a strong business relationship, punctuality is very important. You should arrive at meetings well prepared.

When engaging in business small talk you should not mention the role of the Austrians in World War II and it is advisable not to talk about money or religion. Make yourself familiar with facts that distinguish Austria from Germany, because Austrians are proud of the unique features of their country. They think of themselves as a 'skiing nation' and are very proud of their successful skiers.

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While great care has been taken in compiling our data, we cannot accept responsibility for the accuracy of the information provided. Should you have any further questions, please do not hesitate to contact us at any time.

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